

proceed, in the absence of any challenge to what seems to be generally accepted by Delegate Schrag, then I think we will move on.

Let me ask, Mr. Secretary, did you have any challenge to what has been read?

MR. COOPER: No. It is what we adopted.

PRESIDENT CASSELL: All right. The Secretary says that that is what we have adopted. Mr. Vice President, I am going to accept those, as long as there is no challenge, hoping that we can move along. If it appears that that isn't working, I'd be glad to take your advice.

Mr. Coates?

MR. COATES: Yes, Mr. President, the Committee is of the considered position that the Convention ought to adopt its section on Budget Veto Authority, not so much from the stance of pride of authorship, but because, as the Committee weighed the delicate matter of balance between the Executive and the Legislative, it felt that if the Executive is empowered with line item veto authority, we ought not make the balance uneven in the respect that the legislature has to achieve a two-thirds vote of all of its members, but that two-thirds of those present and voting ought to be sufficient and provide the kind of balance against the

Executive's line item veto authority to give proper respect to the delicate matter of the balance of powers.

So we urge the adoption of the article as we presented it to you.

And then finally, sir, the other rationale for adopting this matter in the posture that we recommend it is that it looks like what we presently have, and we have been advised widely within this Convention and across this City to bring forth a constitution that looks very much like what we have, and this veto authority as we project it is consistent with what now is incorporated in the Home Rule Charter.

A final comment, sir, is to urge that we accommodate at this point the best wisdom of the Committee on Education and to adopt the section as the Committee brings it to us in its amendment, incorporating "unless otherwise specified in this constitution", and allows, when the Committee on Education's report is adopted, that safeguard for the education agency spending programs.

So in substance, this section provides a better balance between Executive and Legislative powers and also looks most like what we currently have, speaking to the argument that that would engender wider support for the adoption of

the constitution.

PRESIDENT CASSELL: Delegate Mason?

MRS. MASON: Mr. President, I have a question in regard to the veto vote in terms of the majority of those present and voting and what has already been approved. Now, how did we rectify this?

PRESIDENT CASSELL: Could we have that question again, please?

MRS. MASON: We already have a vote recorded by this body, and now if we adopt something that is different from what has been recorded, in terms of the required number of those in attendance, in order to deal, how would we rectify it?

PRESIDENT CASSELL: The question is how do you rectify the different between two-thirds voting and present and two-thirds of the body; is that the question?

MRS. MASON: That's the question.

PRESIDENT CASSELL: First of all, I think the question is addressed to the Chairperson.

MR. COATES: The opportunity to rectify such matters was seen firstly in the exercise of the Style and Drafting, which would discover and deal with that inconsistency if it does occur, and any others, and bring such report to us

as it feels appropriate for action. Also, the body has the authority to otherwise amend its previous actions --

PRESIDENT CASSELL: Yes, does that mean that the Committee acknowledges that there is an inconsistency that we have discovered at this moment, and we can either correct it here, or wait for Style and Drafting to correct it?

MRS. MASON: Point of order, Mr. President.

PRESIDENT CASSELL: State your point of order.

MRS. MASON: I think it is very important to have on the record that Style and Drafting should not change the substance of something that we have voted on for the record here. If we are changing only the style and the drafting, and not changing the substance, I think -- we'll have a big fight about that in Committee.

PRESIDENT CASSELL: I would think that that would be a change in substance, if Style and Drafting should make that -- why should we not deal with the inconsistencies here and now?

MR. COATES: I just wanted to say they would discover and report to us on them. I didn't say that they would make the change.

PRESIDENT CASSELL: Okay. Is there any reason why

we shouldn't deal with it now?

MR. COATES: I see no reason why we should not.

PRESIDENT CASSELL: Delegate Kameny?

MR. KAMENY: I wanted suggest just exactly that, and if I may, and if it will be in order, I will propose an amendment to the section before us now at the end -- I'll make this formal proposal in an instant -- which would, if adopt, conform the majority vote to that which is found in the section on the Legislature. We then either vote that up, or we vote it down. If we vote it down, then we have in effect amended the section on the Legislature and have adopted what the Committee on Taxation wants; if we vote it up, then we have accepted what the Committee on the Legislature wanted, and we have voted down what the Committee on Taxation wants, and we have made our decision by simple majority vote without going back to Style and Drafting and coming back here, and have done it simply and straightforwardly.

PRESIDENT CASSELL: Please give us your amendment.

MR. KAMENY: Therefore, I move that lines 1 and 2, page 4 of the report before us be amended to read, "have been decided by" --

PRESIDENT CASSELL: Hold it. There is already a motion on the floor to strike, and you have got to deal with

that.

MR. KAMENY: In that case, I would like to be re-recognized when the time comes.

PRESIDENT CASSELL: Didn't we vote on the motion to strike, and it lost?

MR. COOPER: No.

MR. COATES: No, we did not, sir.

PRESIDENT CASSELL: We did not? The motion to strike is still on the floor?

MR. COATES: Yes, that is the pending motion.

MR. KAMENY: When the Chair tells me I am in order, I would like to make my amendment, then.

PRESIDENT CASSELL: Yes; you are not in order.

We now need to take care of the motion to strike "Budget Veto Authority". There has been sufficient discussion on that --

MR. T. MOORE: Mr. President, I seek recognition. I was recognized before, but you didn't give me a chance to speak, Mr. President.

PRESIDENT CASSELL: Delegate Moore?

MR. T. MOORE: Unless we can settle this inconsistency I would move to place it under the table until we get some type

of agreement, in due respect of the Chairperson.

(The motion was duly seconded.)

MR. T. MOORE: I think we need to continue to move on. So I would move to table it until it is evaluated and assessed by the respective Committee Chairs.

MR. OULAHAN: I will withdraw my motion to strike on the basis of that, Mr. President.

PRESIDENT CASSELL: Delegate Oulahan, do I understand that you have withdrawn your motion?

MR. OULAHAN: In light of Colonel Moore's motion, I withdraw my motion to strike and support him.

PRESIDENT CASSELL: All right. We are back to the original motion. Delegate Kameny -- I assume that that withdrawal satisfied you, Delegate Moore?

MR. T. MOORE: I moved to table it --

PRESIDENT CASSELL: Well, if it is withdrawn, it isn't tabled.

MR. T. MOORE: Okay, then, I'll withdraw it.

PRESIDENT CASSELL: Okay. Delegate Kameny?

MR. KAMENY: Okay. I move that lines 1 and 2 on page 4 be amended to read, "have been decided by a two-thirds majority vote of all of the members of the legislature."

MR. SCHRAG: Point of order.

PRESIDENT CASSELL: State your point.

MR. SCHRAG: Mr. President, although I agree with the substance of what Mr. Kameny is doing, I think we have to do it by the rules. The rules provide there is one way to deal with inconsistencies. Mr. Kameny's motion is a reconsideration, and it is out of order as a reconsideration. The only way under the rules that we can correct an inconsistency is to deal with it on second reading, after it has been called to the attention of the Committee on Style and Drafting.

There is a second way to do it, however, Mr. President, and that would be to suspend the rules --

PRESIDENT CASSELL: Let me interrupt you. Why do you think this is a reconsideration when we haven't voted on this yet? We haven't voted on the main motion. There is nothing to reconsider.

MR. SCHRAG: It is a reconsideration of the article we passed the other night, which says two-thirds vote of all legislators. The Kameny motion would reverse that, and therefore, it is a reconsideration. If you don't say it is a suspension of the rules, I'll support it.

PRESIDENT CASSELL: No, no, no. The Chair rules that what you did the other night had to do with a particular article. This has to do with the article before us. You

could very well adopt an article which was in conflict -- I see nothing wrong with Delegate Kameny's motion if it isn't a reconsideration of anything that is on the floor now.

Delegate Kameny?

MS. EICHORN: Point of order.

MR. KAMENY: I stated my motion, and all I need is a second.

(The motion was duly seconded.)

MR. KAMENY: It has been seconded.

MS. EICHORN: Point of order.

PRESIDENT CASSELL: It has been moved and seconded that the wording on page 4, lines 1 and 2, be changed so that it reads, "a two-thirds majority vote of the body."

Point of order, please?

MS. EICHORN: Mr. President, Delegate Schrag pointed out that we have already taken action with respect to the vote by which the legislature may override an item veto by the Governor. Therefore, this section is the reconsideration, not just the amendment. We are reconsidering this process. We have already adopted this.

PRESIDENT CASSELL: Delegate Baldwin?

MR. BALDWIN: Mr. President and fellow Delegates, I rise to a point of order, and the point of order are the

rules, Number O, and I am supporting exactly what Delegate Schrag and Delegate Eichorn stated. Even the maker of the motion admitted to us, he said, "I have a solution to us, but it is going to require dealing with past action, meaning the legislature, what we have adopted." Mr. President, we can only deal with it unless we reconsider, and the motion to reconsider is out of order, and he has to either deal with the present, without going back to anything this body has adopted -- because that is considered reconsideration.

Now, if -- and he was the one who said it deals with both of them. That, I don't know. If he were correct in what he said, then this motion would be out of order. If he is not correct, if that is not in the legislature -- sir --

MR. KAMENY: I read the language. The language comes directly from the Legislative Committee's language.

MR. BALDWIN: Okay, I am very glad to hear that, so I think every delegate sitting here knows that the point of order is correct, and that he is dealing with past legislation, and the only way you can change past legislation is through reconsideration.

Thank you.

MR. COATES: Mr. President, a point of information. Delegate Kameny's motion does not propose to change past

legislation.

MR. BALDWIN: But he said it does.

MR. COATES: Well, he did not say that, and our correct understanding is that this motion does not propose to reconsider in any way past action. What this motion proposes to do -- and I am not supporting, this is just clarification -- is to amend the present proposition to look like the past one, only in respect of two-thirds, namely, two-thirds of all legislators

PRESIDENT CASSELL: Yes, delegate Kameny?

MR. KAMENY: Well, what this is an attempt to do, very simply, is, in view of the fact that May 29th is less than two weeks off, instead of two years off, it is an attempt without doing any violence in any way whatsoever to the principles of our rules, to nip an inconsistency in the bud now, by a simple majority vote, which is the way we decide inconsistencies in any case, without allowing an obfuscation of the rules, with all due respect to Delegate Schrag, whose comments are usually invaluable -- in this case, I think they are pure obfuscation, and in an attempt to give this body a chance to resolve the inconsistency now by majority vote, and move on, and not have to engage in a cumbersome procedure of taking it to the Committee on Style and Drafting, to bring it

back, to go through all of that business when we can do it now, I say there are times when the rules are made for people, and not people for rules, and I strongly urge my amendment.

PRESIDENT CASSELL: Okay. The Chair would like to address the Convention. I think Delegate Kameny has made a valid point. The rules are made to expedite. I think that if we follow his advice, we are doing what Delegate Coates said, and that is to make the article which we are now discussing conform with another -- it can conform or it cannot conform. What he is attempt to do is to make that. I don't think that the procedure is as important as getting that work done. The motion on the floor now is to change the wording on page 4, lines 1 and 2, to conform, and Delegate Kameny has indicated how that should conform. I think that is much more important than debating the fine points of parliamentary procedure.

I would like to put that to a vote. Those in favor of Delegate Kameny's motion, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Those opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: The ayes have it.

MR. COATES: Mr. President, we haven't completed action yet on this section.

MR. JORDAN: Point of information.

PRESIDENT CASSELL: Yes. State your point.

MR. JORDAN: Mr. Chairman, I am confused. If we vote down this motion as it now stands, are we suggesting that we are going to vote down the whole section of "Budget Veto Authority", and then the only way it will be covered is under the legislative authority now, which has the language that it was offered as an amendment.

PRESIDENT CASSELL: That would be the effect of voting it down, so that he is actually supporting Delegate Coates' position.

MR. JORDAN: And there would be no way, then, for them to bring the issue back and forth, with two-thirds of those present and voting.

PRESIDENT CASSELL: Delegate Barnes?

MR. BARNES: Yes, I think we have talked about this issue enough, and I'd like to move the previous question.

PRESIDENT CASSELL: No. Before we move the previous question, it seems to me we need some clarification of what we

are doing on it.

Delegate Mason, please?

MR. MASON: At one point in the discussion, I believe Delegate Coates said he wanted this section to look like the existing law in the Charter. The existing law in the Charter requires a two-thirds vote of all members of the Council, not of those present and voting. I thought that should be clear. If we are trying to conform with existing law, the Kameny amendment does just that.

PRESIDENT CASSELL: Okay. Delegate Freeman, and then Delegate Baldwin.

MS. FREEMAN: Mr. President, are we on the Kameny amendment?

PRESIDENT CASSELL: No. The Kameny amendment passed. We are on "Budget Veto Authority" as amended.

MS. FREEMAN: I would just like to speak against adopting this section because it really basically strips the legislature of significant power in determining the budget. When you give the Executive line item veto authority, you are empowering the Executive tremendously. The only way to counterbalance that power is to give the legislature override. I mean, there are some legislatures which don't even require two-thirds of those present and voting, but simply a majority.

That, I think, is really the only way to restore power back to the legislature. But at a minimum people should vote this section down, because it now calls for two-thirds of all those who are members of the legislature, and that essentially strips the legislature of power over the budget, and the legislators are, after all, our duly-elected representatives, and we are going to have 40 of them, so I think they will be truly representative of this City.

PRESIDENT CASSELL: Cooper, and then Baldwin.

MR. COOPER: Yes, speaking also as a member of the Committee, I would urge you to vote this section down. Originally, I was one of the Committee members who did want an override on the budget to occur by two-thirds of all members of the legislature, but after a great deal of scorching and searching --

(Laughter.)

MR. COOPER: -- the Committee convinced me that this was in fact the most efficient way to provide a viable check for the legislature. So I would therefore urge you, delegates, to please vote this section down, because as it stands now, it is worthless and provides the Executive with an unnecessary tool that he can surely abuse.

PRESIDENT CASSELL: All right. Delegate Baldwin, and

then I think we can vote on this and move on.

MR. BALDWIN: Delegate Coates, mine is a point of information. Am I to understand that we have adopted the Kameny amendment that reads "two-thirds of all legislators"? Is that correct?

MR. COATES: Yes, sir.

MR. BALDWIN: No, you are asking, as Chairman of the Committee, that we now -- I just want to be sure, so I know how to vote -- you are asking as Chairman of the Committee that we reject this section, including amendments -- is that your preference -- just reject the total section?

MR. COATES: On the understanding that that would get us back to the Committee's original position.

MR. BALDWIN: No, sir, that wouldn't do that. I'm just trying to find out what you want. If we reject that section as amended, you would have zero there; you wouldn't have a section. And I was just wondering, if we did that, what would the position of your Committee be? I thought that's what you were saying, and now that I see it --

MS. FREEMAN: Point of order.

PRESIDENT CASSELL: The section has been amended, now; on that we're agreed, right.

Point of order?

MS. FREEMAN: My point of order is I think that one of the things that happened to this body was that we were confused on what we were voting on, and that we actually did vote on the Kameny amendment, but I don't think that many people knew they were voting on that. And we never debated the substance of it. We were so caught up in the parliamentary issue as to whether or not we could even consider it, whether it was a reconsideration or not, that when the vote came to the body, we had not debated the substance of it, and it is a point of order. I don't know what to do about that.

PRESIDENT CASSELL: Well, I don't think that it is a point of order that people didn't know what they were doing.

MS. FREEMAN: I don't think they did.

PRESIDENT CSSSELL: That could be possible, but the Chair remembers explaining that very carefully, and as you know, Delegate Kameny is always easily heard, and he is quite articulate, and he made it clear that what he was trying to do was conform this article. I think that was clear and everybody understood. It won't have to be this one. You have to make this one conform to the one already adopted.

Point of clarification?

MR. COOPER: Yes. I think the First Vice President

has really misstated what action might take place.

MR. BALDWIN: I asked a question.

MR. COOPER: But the First Vice President stated that if we vote the adoption of this section down, that there is nothing we can do with regard to its adoption. But as you will recall, in adopting Section 2 of the Committee on Legislature, we voted down that entire section and then it was reintroduced, with very minute word changes, but reintroduced in substance the same. So I would submit and let you realize that we can do the very same thing here. And I don't want the body to be misguided because of a lack of remembering our past actions.

We can reintroduce this section as the Committee proposes if we vote it down as amended.

MR. BALDWIN: Based on what rules?

MR. COOPER: Based on starre decisis. We did it the other day.

PRESIDENT CASSELL: Yes, state your point.

: Mr. President, we are wasting a lot of time. Can we take a vote on this?

PRESIDENT CASSELL: I think so, too. Let the Chair indicate that the Parliamentarian indicates that it seems reasonable that we vote this section down. What we are voting

down is the section as written here and amended. There is nothing to keep us from dealing with the idea of "Budget Veto Authority". Anybody can come in with any new article on that. This is a Committee report. You can turn them down. You can turn down the amendment, but it doesn't deny us the opportunity to vote on a section on "Budget Veto Authority".

I think that was your understanding, Delegate Coates, which is why you thought if this were voted down, we could get back to it; correct?

MR. COATES: That's correct.

PRESIDENT CASSELL: Those in favor of the "Budget Veto Authority" section as amended by Delegate Kameny, indicate by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(A show of hands.)

PRESIDENT CASSELL: The motion loses.
Delegate Coates?

MR. COATES: Thank you, Mr. President.

Mr. President, for the information of the Chair and the delegates, the Committee members are working on

alternative language for the section designated "Budget Veto Authority", and will present that alternative language to us before the Committee completes its report.

I move the adoption of the section entitled, "Expenditures", on page 4, beginning with line 4.

(The motion was duly seconded.)

MR. COATES: Discussion?

PRESIDENT CASSELL: Delegate Coates, I am sorry. I was conferring with the Parliamentarian to make certain that what we are doing now is appropriate and legal.

Tell me where you are now. What is on the floor?

MR. COATES: I indicated for the information of the Chair and the delegates that the Committee members are working on some alternative language for the section entitled, "Budget Veto Authority", and will be presenting that to us before the Committee completes the presentation of its report for first reading, and I had moved the adoption of the section entitled, "Expenditures", which motion had been seconded by Delegate Johnson, and Delegate Oulahan had risen to speak on discussion.

PRESIDENT CASSELL: Thank you.

MR. OULAHAN: Mr. President, I have a change in language, which I think is satisfactory to the Committee,

because it means the same thing but uses general statutory language.

In line 8, of page 4, delete "object" and substitute in lieu thereof "general or specific purpose". That language that I have suggested to substitute, Mr. President, is one that is found more in legislation than the word, "object", and I think it means the same thing.

(The motion was duly seconded.)

PRESIDENT CASSELL: Committee response?

MR. COATES: The Committee supports the amendment of Delegate Oulahan.

PRESIDENT CASSELL: Further discussion?

(No response.)

PRESIDENT CASSELL: Okay. Those in favor of that amendment, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: So ordered.

Delegate Coates -- Delegate Moore?

MR. B. MOORE: Yes, I have a question regarding the

second sentence there. It says, "except in accordance with appropriations made by law". Is there any consideration for emergencies? If there is a statewide emergency, and money is needed, is that taken into consideration, or would that have to be addressed? If there were a flood, or something --

MR. COATES: Mr. President, I am not quite clear on the question.

PRESIDENT CASSELL: Could you rephrase that?

MR. B. MOORE: Okay. There is no provision in this section now for the state to withdraw funds for emergencies. It appears that you only can withdraw funds in accordance with appropriations made by law. Does "made by law" take into consideration emergencies, or do you specifically have to state that?

MR. COATES: Yes, it does. "Law" considers emergency. As I recall, the article on the legislature provided for emergency action, from the finding consistent with certain criteria, for the declaration of that emergency.

MR. B. MOORE: Thank you.

PRESIDENT CASSELL: Further questions?

(No response.)

PRESIDENT CASSELL: There being no further questions --

MR. COATES: Mr. President, I move the adoption of the section entitled, "Expenditures", as amended.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that we adopt the section on "Expenditures" as amended. Those in favor, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Delegate Coates?

MR. COATES: Mr. President, I move the adoption of the section entitled, "Borrowing".

(The motion was duly seconded.)

PRESIDENT CASSELL: Moved and seconded that the section on "Borrowing" be adopted. Discussion -- I beg your pardon, Delegate Coates. Did you want to speak on behalf of that motion?

MR. COATES: Well, I wanted to propose an amendment to the section which would provide for the authorization by the legislature of any debt issue, which would add at the end of line 14, another sentence. "The issuance of debt requires

the authorization of the legislature."

(The motion was duly seconded.)

MR. COATES: Mr. President, the article did not have in it the requirement that debt be authorized, so that the Executive, without this amendment being adopted, could issue debt and thus encumber the state by its own independent action, and in the checks and balances respect of the Convention, which should be incorporated in the constitution, this provides the proper balance, and it looks like the present arrangement, where debt has to be authorized by the D.C. City Council. In the case of the state, it would have to be by the legislature.

PRESIDENT CASSELL: Discussion on that amendment?

(No response.)

PRESIDENT CASSELL: It reads now, the last sentence, "The issuance of debt requires the authorization of the legislature." Those in favor of that amendment, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Further amendments?

Oulahan?

MR. OULAHAN: Mr. President, I move an amendment which was discussed by Matt Watson and myself with the Committee, and it probably is a substantive amendment. It is to delete the language at the end of the first sentence, which reads, "and negotiable notes in anticipation of appropriation".

(The motion was duly seconded.)

MR. OULAHAN: The purpose of the amendment, Mr. President, is that neither the City Auditor nor myself knew of the nature of negotiable notes in anticipation of appropriation. In other words, city government does not ordinarily, and we don't believe it should be able to, go out and raise money in the money market before appropriations are actually made by the legislature. It is all right for that in anticipation of revenues, but you've got to have an appropriation bill. Otherwise, you are going to be like the heir who is spending his money in anticipation of his old mother dying.

Therefore, our proposal -- and I don't quite remember what the Committee agreed at the time -- is that that last provision, "negotiable notes in anticipation of

appropriations" be deleted. I think it is fiscally unsound.

PRESIDENT CASSELL: Response from the Committee?

MR. COATES: Mr. President, under the present, that is, under the Home Rule Charter, the city has the authority to issue short-term debt, and it does it in two ways, one, by revenue notes in anticipation of revenues -- that is, the city is aware that semi-annual payments of property tax are due at a point beyond, let us say, the date of a present revenue need, but knowing that revenues will be flowing into the treasury, that is, the D.C. Treasury, at the point, let us say, of the first payment of the semi-annual property tax, the state can issue revenue notes in anticipation of those revenues and thus have available to itself sufficiently in advance to meet its cash flow needs. That is a form of short-term debt. It also can affect short-term debt by negotiable notes. For example, if revenues are available, contrary to the rationale of Delegate Oulahan for striking this, if revenues are available, it is not an inheritance which one will ultimately receive. Those revenues are there, but they are not appropriated at the point. Negotiable notes are used to make those moneys available, and the proper wording is "negotiable notes to meet appropriations", so that if there are available revenues -- this is a matter of money being

present but which has not been appropriated, to make that available to the state, the state can issue negotiable notes. The difference in the charter between the two is that revenue notes can be issued up to 20 percent of the current appropriations, but negotiable notes can be issued only to the extent of 2 percent, so that the latitude of using money which is available but not yet appropriated is a much smaller latitude, 2 percent. If moneys are coming later, the latitude is wider. The state has a 20 percent latitude to issue revenue notes in anticipation of revenues.

Now, the Committee wanted to provide that capability to the new state because it felt that short-term borrowing is critical to keep the state out of a deficit position, so that if there are temporary cash flow problems, to maintain the level of services. Now, deficit position curtails services on which many of our constituents and communities vitally depend. To eliminate the curtailment of needed services, the state has to have available to it these short-term borrowing instruments.

So the question that Delegate Oulahan raises is raised on a question that the Committee is not proposing. We are not proposing that we use moneys that are in the nature of an inheritance. Negotiable notes, in the view of the Committee, to meet appropriations, allow us to make use of available

revenues that have not yet been appropriated.

PRESIDENT CASSELL: Further discussion on Oulahan's motion to strike?

(No response.)

PRESIDENT CASSELL: There being none, Mr. Secretary, would you indicate exactly what is to be struck?

MR. COOPER: Yes. Mr. Oulahan wishes to strike the language beginning on line 13, "and negotiable notes in anticipation of appropriations".

PRESIDENT CASSELL: Those in favor of striking that portion of the sentence, indicate by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Those opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: The motion loses.

The original motion is on the floor as amended, and that is by adding to that at the end of the last sentence, "The issuance of debt requires the authorization of the legislature."

Those in favor of that section on "Borrowing" as amended, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: The motion carries.

Mr. Coates?

MR. COATES: Mr. President, I move the adoption of the first paragraph on page 5, beginning at line 1 and ending with line 2, and beginning with the words, "No local jurisdiction".

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that the first paragraph on page 5, beginning with "No local jurisdiction", be adopted.

Discussion?

(No response.)

PRESIDENT CASSELL: There being no discussion, those in favor of adopting those two lines, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Those opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Mr. Coates?

MR. COATES: Mr. President, I move the adoption of the second paragraph on page 5, beginning at line 4, with the words, "The legislature shall".

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that the next paragraph, lines 4 and 5, "The legislature shall set the overall debt limit for general obligation bond indebtedness."

Is there discussion on that? Delegate Long?

MR. LONG: Just a question. Is there any conflict between this section and the section following, "Debt Service Limitations"? It seems to me they are closely related -- or is there something I don't understand here?

MR. COATES: Delegate Barnes will respond on behalf of the Committee to the question of Delegate Long.

MR. BARNES: Yes, we had a long and heated debate on this topic, as well. What we ended up doing was saying that the percentage of -- that we couldn't pay back more than 14 percent of the total revenues that we bring in to pay off the debt, but for the total debt of the state, that would be set by the legislature.

Now, it is true, the 14 percent does, in most instances, do the same thing as an overall debt limit, but they are different. And it was just more or less kind of a compromise.

MR. COATES: Let me extend, Delegate Long, the position that Delegate Barnes had begun to explain. Debt limit relates only to the amount of repayment. It does not relate to the size of the debt. It relates to the size of the repayment. The debt limitation section relates only to the size of the repayment; if you are required to repay \$20, \$30 \$40 a month. This provision requires that we cannot repay any more than 14 percent in any biennial period. The debt ceiling, the debt limit in that sense, the total debt, is a matter that we provide the legislature would set, because we felt that if we said a billion dollars, 100 years from now, a billion dollars relatively might be miniscule in terms of what debt ought or ought not be. So the section we are concerned with now has to do with the debt ceiling. Debt limitations has to do with the amount of repayment on that total debt.

MR. LONG: Well, effectively, then, it is possible for the legislature to set a debt ceiling, fund to the ceiling, or borrow to the ceiling, and then find itself

constitutionally unable to repay the debt service on that debt because it exceeds 14 percent.

MR. COATES: The answer to that question is no, sir, because in another pertinent part, the Committee restricts the state to the commercial market, and the commercial market will only loan you what you are capable of repaying, and they will look at that 14 percent against the revenues for that period and say, "You can repay 'x' million dollars this year," and they will only loan us that much money, no matter what we set the ceiling at.

PRESIDENT CASSELL: Further discussion?

(No response.)

PRESIDENT CASSELL: Okay. We are dealing with that second paragraph on page 5, "The legislature shall". Those in favor of adopting that paragraph, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Delegate Coates?

MR. COATES: Mr. President, I move the adoption of the third paragraph on page 5, beginning at line 7 and ending

at line 9, beginning with, "Citizens have the right to petition".

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that lines 7, 8, and 9, "Citizens have the right to", be adopted. Discussion?

Delegate Long?

MR. LONG: I think I must object to setting aside one particular kind of capital projects out of all those in which the state can engage. I understand, of course, the essential interest in education in the city. But the resounding defeat given to the initiative on tuition tax credits, I think that we are going to trust the population with initiative power, and we should not restrict it on any particular special interest.

So I urge you to vote down this section completely.

PRESIDENT CASSELL: Delegate Rothschild?

MR. ROTHSCCHILD: Yes, I would also speak in favor of voting it down, for the reasons just given, and for more reasons. The referenda section which we adopted is a very difficult one. It requires a large output of energy to get the signatures, basically, to put it on the ballot -- I think, 5 percent in two-thirds of the areas, and you have 90 days

to do it in. Without a trigger factor, without referenda above a certain percentage of our expected revenues, or without some kind of a trigger factor, basically, we are making it almost impossible to do effective referenda.

As far as initiative goes on capital spending, there is no way to stop it if you do it initiative. Initiative, you have 180 days to get the signatures, but the thing could go into effect after 90 days, and the state could commit itself to spending and to contracts, making it actually impossible to do an effective initiative. So on that factor alone, that the referenda is too difficult, and initiative could preclude the possibility of stopping it before they went to contract, I definitely think I am not in favor of that section.

Thank you.

PRESIDENT CASSELL: Delegate Bruning?

MR. BRUNING: I personally would probably have favored referendum as an automatic. But this was a carefully worked out compromise. I may add that I think the referenda provision which came out of the Suffrage Committee is not overly difficult. Indeed, it is at least as easy as it is now, and possibly easier.

I would also say that the language that is in the

document right now corresponds directly with the language in suffrage, in terms of the initiative proposal, in terms of the exemption on the referendum section, in terms of educational institutions. So there is no conflict between the two. Two-thirds, 5 percent, 90 days, and we have got the provision, remember, that no law goes into effect until 90 days, so we are not going to face the situation in which a law is in effect before people have a chance to stop it.

So I don't think it is a particularly onerous position that a referendum gives the voters, nor does that provision.

PRESIDENT CASSELL: Delegate Barnes?

MR. BARNES: We are overlooking a very simple reason to vote for the language in the Finance and Taxation article, and it is a reason given on another point that was debated. It has already been approved by the body and will cause a conflict, and will have to be resolved at second reading.

Therefore, I urge you to vote for the Finance and Taxation version, which exactly matches the version of the Suffrage Committee.

PRESIDENT CASSELL: Is there any discussion that has not been heard yet? If there isn't, then I want to move

on.

Delegate Mason?

MR. MASON: I would ask Mr. Bruning, is there any reason to have this, or is it fully covered in the Suffrage Committee report? It is apparently not in conflict. Is it duplicative, or is the provision about education new -- what is the purpose of this in here? Isn't it identical to what is in Suffrage?

MR. BRUNING: It's identical.

MR. COATES: Yes, it is new.

MR. MASON: Is the education part in the Suffrage one? I am trying to refresh my memory?

MR. BRUNING: My understanding is that the first initial draft of suffrage was in conflict by not having a provision except for educational purposes. It was amended by Delegate Barnes to correspond directly with Finance and Tax, so I think there is no conflict. Whether or not it is now a necessary duplicate is the question. I personally would like to see it in there, simply because I think it is a redundancy that I think is well worth enforcing.

MR. MASON: My point, then, is that it is harmless redundancy, and is not necessary.

MR. COATES: If it is covered as amended in the

Suffrage article, we don't --

PRESIDENT CASSELL: Thank you. Would you like to move to strike?

MR. COATES: Yes. We have just read it from the Suffrage article, as shared with us by Delegate Johnson, and that is not reading it in the minutes of the Convention, but I would take it on good faith.

PRESIDENT CASSELL: The Chair would entertain a motion from the Committee, then, to strike that, if that is a harmless but unnecessary redundancy.

MR. COATES: The Committee is of the view, sir, that we ought to strike paragraph 3 on page 5, beginning on line 7 and ending on line 9, and I move, sir, that we do so.

(The motion was duly seconded.)

PRESIDENT CASSELL: All right. It has been moved and seconded that the third paragraph be struck because it is a redundancy. Those in favor of striking that, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(NO response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Mr. Coates?

MR. COATES: Mr. President, I move the adoption of Paragraph 4 on page 5, beginning at line 11 and ending at line 12.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that Paragraph 4, beginning on line 11 and ending on 12, page 5, be adopted.

Discussion? Mason, Rothschild, Oulahan.

MR. MASON: You say "within the succeeding fiscal period". Should you not say "within the same fiscal period or the succeeding one"? In other words are you forbidding them to retire three weeks from now, if they can? Do they have to wait until the next fiscal period?

MR. COATES: Mr. President, it was not the Committee's view to prohibit the retirement of debt as soon as possible, and it stands open and welcome to perfecting language.

MR. MASON: I move an amendment to say, "within the same fiscal period or during the succeeding fiscal period".

(The motion was duly seconded.)

PRESIDENT CASSELL: All right. It has been moved and seconded to clear that up, so that if the debt can be

and it is the desire to retire it within the same fiscal period, it could be done. The wording is, "must be retired within the same or succeeding fiscal period". Is that correct, Delegate Mason?

MR. MASON: "within the same fiscal period or within the succeeding fiscal period".

PRESIDENT CASSELL: Discussion?

Delegate Rothschild?

MR. ROTHSCHILD: Are we speaking to the Mason amendment?

PRESIDENT CASSELL: Yes.

MR. ROTHSCHILD: Well, I would like to speak to the whole.

PRESIDENT CASSELL: Oulahan?

MR. OULAHAN: I move to substitute the following language for my friend's amendment: "retired within the current fiscal period" and delete "the succeeding fiscal period".

PRESIDENT CASSELL: Is there a second to that motion?

(No response.)

PRESIDENT CASSELL: The motion dies for lack of a second. The motion on the floor is Delegate Mason's motion.

Is there further discussion?

(No response.)

PRESIDENT CASSELL: There being no further discussion, those in favor of adopting Delegate Mason's amendment, which says, "within the same fiscal period or during the succeeding fiscal period".

Those in favor of that motion, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Those opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: The motion carries.

Delegate Moore, I am sorry, your hand went up just as we were calling the vote.

MR. T. MOORE: Well, for fiscal period, I think, is used the term, "biennial". I am wondering if that is two years, or are you talking about one year -- what are you talking about there?

PRESIDENT CASSELL: It's already been decided that it is two years.

Further amendments? Delegate Rothschild?

MR. ROTHSCCHILD: It says that, "All indebtedness except general obligation bonds for capital projects must be retired within" -- and now we have changed that. My question is, what happens if the city or the state wants to build a bridge or do maintenance on a bridge, and use the tolls or something from that bridge to pay off the bonds of more than two fiscal periods.

MR. OULAHAN: Can't do it.

MR. ROTHSCCHILD: Yes, I know. By this language, they would not be able to do that. I think you are limiting our ability to set up some type of bonding arrangements where we might want to do that at some future time.

MR. COATES: Could I ask Delegate Mason? I don't think I understand the question.

MRS. MASON: Mr. President, I think he is confusing the operating with the capital budget. If you were to repair a bridge, you'd be using capital budget instead of operating budget.

MR. ROTHSCCHILD: I'd raise the same question for if you want to build a bridge, and you want to --

MRS. MASON: It's the same thing, building and capital.

MR. ROTHSCCHILD: It's not operating?

MRS. MASON: It's not operating.

MR. ROTHSCHILD: That would be a capital project. But the only bonds that you could use for that are general obligation bonds.

PRESIDENT CASSELL: For capital projects.

MR. ROTHSCHILD: Yes, but if you want to collect the tolls from the bridge --

MR. MASON: You can do that.

MR. ROTHSCHILD: Not unless you pay it off within four years.

PRESIDENT CASSELL: Delegate Long?

MR. LONG: I think I can clarify this. The term, "general obligation bonds", is not well understood, even by most of us here. The question is, sometimes bonds are floated, for which the debt service comes from the dedicated funds, that is, a specific source is designated. And I think the theory is that the term, "general obligation", does not cover this kind of bond, so that by adopting this, we prevent designated bonds which will have a specific source of revenue to take care of the debt service, if that bond should be longer than the two fiscal periods.

Now, if the term, "general obligation bonds", does cover that situation, then we don't have any problem..

PRESIDENT CASSELL: Is there anybody who can respond to that? That's a question.

Delegate Mason?

MR. MASON: I believe the only thing that there is a general obligation bond is if the tolls should fall short and not be able to pay; they would still have to be paid from other revenues. But if it were not general obligation but in the terms of a bond, only to be paid from the tolls, and the tolls weren't sufficient, maybe they could take the bridge, but they couldn't take the other moneys of the state. Whereas, a general obligation bonds, even though it is supposed to be paid by the tolls, if for some reason or another, the tolls were insufficient, then the state would have to find money somewhere else.

MR. ROTHSCHILD: Yes, but we are ruling out the possibility of having a particular bond tied to a particular project, without putting the general obligation of the state in jeopardy. In other words, if we just want the bridge to pay for itself, without the ability of the creditor to go into the general obligation revenues, then the only way we could create a bond like that is if it were to be retired within two successive fiscal periods. So I am saying we are excluding, if I understand --

PRESIDENT CASSELL: Why don't you take a position on that, then? There is a motion on the floor to adopt?

MR. ROTHSCCHILD: I am not sophisticated enough in economic language to be able to create that language, but I raise it to bring the issue to the Committee, to wonder what their thinking was on it.

PRESIDENT CASSELL: Delegate Coates?

MR. COATES: You are speaking about a bridge and whether we could pay off the indebtedness on a bridge in four years.

MR. ROTHSCCHILD: In two fiscal periods.

MR. COATES: The answer to that is yes. The bonds, if revenues are available, could be redeemed at full maturity. You would have to pay a premium, of course, but they could be. The answer is yes.

MR. ROTHSCCHILD: But if we wanted to pay it over a 20-year period and not obligate the general revenues of the city, that clause in the constitution prevents us from doing that. We might decide we want to pay it over 20 years from the revenues from the bridge, rather than over four.

MR. COATES: It does not prevent us.

PRESIDENT CASSELL: All right, I think we have had sufficient -- Delegate Croft, do you have some new information?

MR. CROFT: The delegate has misread the sentence. It says "all indebtedness except general obligation bonds". A bridge would be financed with a general obligation bond, because those are the bonds by which you finance capital projects. The sentence says "all indebtedness except general obligation bonds for capital projects must be retired within the succeeding fiscal period", so it would mean you would not have to pay off the bridge within two years, three years, four years, whatever. The bridge would be paid off based upon what the maturation date is for the bond itself.

MR. ROTHSCHILD: But sometimes, you want to do that without a general obligation bond.

MR. CROFT: No, no. The point we are making is that capital projects can only be financed with general obligation bonds.

PRESIDENT CASSELL: Are we ready to vote on this one, now? This is the fourth paragraph, "All indebtedness except general obligation bonds for capital projects must be retired within the same fiscal year or the succeeding fiscal period."

Those in favor of that motion, please raise your hands.

(A show of hands.)

T3S1

MR. COOPER: Twenty-one.

PRESIDENT CASSELL: Those opposed?

(A show of hands.)

MR. COOPER: Two.

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: It is adopted.

Mr. Coates?

MR. COATES: Mr. President, I move for including in the article under Section, "Budget Veto Authority", the following language.

PRESIDENT CASSELL: Where is this, now? Your next section is "Debt Service Limitation", isn't it?

MR. COATES: Yes. The Committee has worked out alternative language for that language which we rejected.

PRESIDENT CASSELL: All right, Mr. Chairman.

MR. COATES: And to insert, beginning on line 11 on page 3 section, the following language -- the section is "Budget Veto Authority" -- and continuing as follows, "The Governor may veto individual items in the budget unless otherwise specified in this constitution. Upon receipt of a gubernatorial veto, the legislature shall have the power to override the Governor's veto, but such override shall not be

effective unless it shall have been decided by two-thirds majority vote of those present and voting."

(The motion was duly seconded.)

*PRESIDENT CASSELL: It has been moved and seconded that that language be changed as read.

Discussion? Delegate Mason?

MR. MASON: Point of order. Is not this a reconsideration?

MR. COOPER: This is the exact thing we did with the Committee on Legislation with regard to Section 2, when Section 2 was defeated and reintroduced by the Chairman, Mr. Terrell.

PRESIDENT CASSELL: Delegate Mason?

MRS. MASON: Mr. Chairman, I appreciate Delegate Cooper's attempt to answer the question, but I would have to have before me the exact thing that happened with the Legislative Committee report, and even if that happens -- even if that happens, Mr. President -- this is a reconsideration, because there is nothing different in the substance of this motion from the one which we just voted down.

Further, Mr. President, I would like to remind the delegates that we already have a section on veto powers in the Legislative Branch section. I don't know why we are building

any conflict in the constitution.

PRESIDENT CASSELL: Regarding your first question, this section as written by the Committee was read, and it was amended, and the amendment was defeated. The Committee is now bringing to you another Budget Veto Authority item. If indeed, it is the same in substance -- and that was a question -- that is something we have to determine. Regarding the conflict, our Parliamentarian seems to believe that if there are two -- and correct me if I am wrong, now -- if identical sections appear in two different articles, although there may be no conflict in them, the fact that they exist in two different articles constitutes a conflict. Is that correct?

MR. BALDWIN: Yes.

MRS. MASON: There is a difference in the substance of the one which has already been adopted by this body and the one which is before the body now, clearly.

Thank you.

PRESIDENT CASSELL: It is on that basis that the Chairperson of this Committee brings back to us another section, which is entitled, "Budget Veto Authority". The one which they brought first, which was amended, was defeated. The item, "Budget Veto Authority", doesn't die. You can always

have another section on veto authority. What they are presenting to us now is essentially another one, inasmuch as they believe it is necessary to have an article or a section on "Budget Veto Authority".

Delegate Cooper?

MR. COOPER: Yes, this really is quite different from what the Legislature has adopted, and it is very simple. The Legislature's language adopted an umbrella veto of any bill or any item. But this is a specific veto of only the budget items. Whereas the Legislature deals with all items, this is limited, and it extracts only budget item veto, so it is not even what was considered. Individual consideration of items which could be vetoed was considered by the legislature. It simply gave them the authority to veto all bills.

PRESIDENT CASSELL: Delegate Baldwin?

MR. BALDWIN: Delegate Mason is right. I took very good notes tonight, and I am sure the Secretary has it, also. We have agreed tonight -- and I want you to listen to this -- that we are in fact suspending some rules. When we do this, we accept that suspension of rules. But Delegate Mason is 100 percent correct, and when we get to Rights, I for one am going to remind you where you are going to want to hold us strictly to the rules there. And I am saying that I am

that I am for suspending rules and moving along, but just remember, if we do it tonight, we are going to ask to do it other times. And I will refer you specifically to what we did tonight. We suspended three rules tonight, and that is okay with me; we are moving along. But when we come to allowing these things that you are going to call "controversial", you are going to try to hold us to the rules, and I am going on record now, saying when we get to rights, we are going to also deal with suspension of the rules.

PRESIDENT CASSELL: Delegate Jackson?

MR. JACKSON: I, too, would like to speak on this, briefly. I, for one, don't care what happened in another committee., if we were told from the beginning that something came up in another committee and it could come out of that committee, and there could be two conflicting things, whereupon either Style and Drafting or some other body would deal with it. Now, I don't trust Style and Drafting to interpret for me what I think is the proper vote over any other view. Therefore, I think something must be established on this, and I don't think we have said it yet; it has not been solved yet. The way it has been solved so far is that if it comes out of one committee and somebody wants to challenge it -- if nobody wants to challenge it, then it

not dealt with. But for instance, when I come up and defend my rights or someone else's, it doesn't matter to me what has taken place before, as long as we were told from the beginning that it could come up again. But I don't think we have solved that. I would ask that the Executive Committee or the Rules Committee come back with something definite so that we will know that Mr. Baldwin is quite right; we will deal with this on Rights, and Maurice Jackson will stay here until 12:00 at night and fight anybody, when he knows good and well that he was told one thing, and then something else comes up. Now, all the heads in the world can shake, and it doesn't make me one bit of difference; on this one, I am right.

PRESIDENT CASSELL: All right. I think that your point is well-taken. Rather than continue this ad nauseum here now, let us see if we can get a clear ruling and proposal to you from our Rules and Calendar Committee and the Executive Vice President can coordinate that determination.

I would like to move on tonight. Delegate Coates, can we complete the rest of your article and set this one aside until we get a ruling on that?

MR. COATES: Yes, sir.

PRESIDENT CASSELL: Okay.

Delegate Coates, next section. We have asked that,

inasmuch as we haven't decided -- we haven't made a ruling on the propriety of bringing back a section of an article which has been amended and amended and then rejected, and then come back. Let us get a ruling on that and complete the rest of it. Let's see if we can't get a ruling, regardless of what has been done in the past, so that we can understand it and accept it.

What I'm asking is if we can not bring this one back, because it has already been defeated, until we determine a policy for the rest of the Convention regarding bringing back something that has been defeated -- without having to go through the long, lengthy process of suspending the rules each time.

MR. COATES: The Committee doesn't want to put itself in a well-nigh irretrievable position regarding this matter. We submit that there is some difficulty at this point which might be quadrupled or otherwise geometrically multiplied by that alternative procedure.

I would hope that we could take a position here at this point where the proposition is, insofar as its parliamentary reference is, and then work that out in the light of some rules review or some subsequent action that will follow from the Style and Drafting report or second reading.

PRESIDENT CASSELL: The Chair's fear is that we will

—
spend a good deal of time debating that, referring to history, arguing over whether we need to suspend the rules, and that our time would be better spent to continue the momentum that we have tonight and finish that.

If there is to be further time spent on it, let that be the last article that we deal with among yours.

MR. COATES: Well, I certainly respect the position of the Chair, but I'd like to also share that the Committee members and the Chair of this Committee have, prior to first reading, worked out several accommodations, and the amending process has flown as smoothly as it has because of that antecedent work on the part of the Committee. And I would hope that that has begotten for us some time to handle this one particular matter -- out of all that we have had, this one particular matter -- that has some, I should not say extended need requirement, of time, but at least some additional time, relatively, beyond what we had to do on other matters. That is to say, the Chair is quite right -- we don't want to get bogged down, but we have moved fairly quickly here and that, in my estimation, gives us not the luxury, but certainly the opportunity, to use a little time on this one matter.

PRESIDENT CASSELL: All right. Let me take that under advisement momentarily. Delegates Mason, Jackson, Schrag.

MR. MASON: I am speaking to the section which we have almost finished. We have finished all except the discussion. When we reached the paragraph at the top of page 5, which was voted out very quickly, I had tried to get the attention of the Chair, unsuccessfully. It was voted with no discussion whatever. I would merely ask the Committee if they realize that this would apparently prevent any local jurisdiction from buying a single pad of paper on credit. It seems to me the language here goes much further than the Committee probably intended -- I don't know what they intended.

PRESIDENT CASSELL: Delegate Mason, I can understand that you have some concern, but your expressions are now out of order, inasmuch as that has been passed.

MR. MASON: I attempted to get the floor at the proper time.

PRESIDENT CASSELL: I am sorry. We have been trying to move along, and when I say, "Is there any further discussion", that is the time --

MR. MASON: My hand was up at that time.

PRESIDENT CASSELL: I'm sorry. I missed you, then. Delegate Jackson?

MR. JACKSON: Yes, sir. I have one clarification. For tonight, as we go along, we are going with the regular

process of voting on whatever comes up; is that correct?

PRESIDENT CASSELL: Yes, which is what we have been doing.

MR. JACKSON: Thank you. No, but in light of all this stuff about reconsideration, we're voting on everything that comes up, right? That's what I asked.

PRESIDENT CASSELL: If something comes up before the body, we'll have to vote on it. If somebody raises the question that this is in conflict, we have to entertain that. We can't deny them the right to mention that this is in conflict with something else. A person has that right. We can't deny them raising it. The body can reject it or accept it.

Delegate Schrag?

MR. JACKSON: But the Chair can't reject it?

PRESIDENT CASSELL: No, the Chair can't do that. The Chair prefers not to do that.

Delegate Schrag?

MR. SCHRAG: Mr. President, I have a suggestion for a possibly expeditious way out of this "Budget Veto Authority" quagmire that we are in. I support the Committee's position substantively on the present and voting issue. I am ready to support the Committee, and as far as I know, everybody else is.

Nobody has spoken against the Committee position on the merits.

We are just wondering about the right procedure to do it.

I wonder if you might take a straw poll, an unofficial poll, Mr. President, of how many people are ready to support the Committee. If two-thirds of the people in the room support the Committee on this, we can amend this section and the appropriate section of the Legislative article by suspension of the rules. If it loses, it doesn't count against anybody, because it is unofficial, it's a straw poll, it doesn't count in the record of the Convention. But if we get the two-thirds, then we'll go on the record, and we'll do it on the record, and we'll be done with this issue, and the Committee will be supported. I particularly like that idea because that way, we can deal with the Legislature article tonight, with that one sentence in the Legislature article tonight, too. Tomorrow, the Style and Drafting Committee is meeting on the Legislative Article, and I hate to have to bring a conflict back to this floor and by doing this tonight, we can have the Style and Drafting Committee bring it to the floor the way the body wants it, instead of the way the body doesn't want it.

PRESIDENT CASSELL: You are simply saying that we reconsider. Delegate Coates what is your response to that

suggestion?

MR. COATES: Could I take a pre-straw straw?

PRESIDENT CASSELL: Among your Committee?

MR. COATES: Well, the Committee would find that information helpful, and thinks that the Chair might well do that to get us through this.

PRESIDENT CASSELL: Mr. Cooper, point of personal privilege.

MR. COOPER: Mr. President, what Mr. Schrag has proposed is an obvious double-standard. This is not the way we proceeded when Section 2 of the Legislature was brought before us a second time. I don't think we should proceed for that this time.

Now, Mr. President, I am sure you know that from the beginning of this Convention, I have fought fervently for strict adherence to the rules. I fought for this when the legislature in Section 2 was brought back. I knew I was right that it shouldn't have been brought back, but I was ruled out of order. Now that the same thing has happened, this is precisely what I was arguing for trying to avoid. Now we find ourselves in the same quagmire, but we are dealing with it a completely different way. All of a sudden, we want strict adherence and ruling from the Parliamentarian, who

was here that night -- the Parliamentarian was here the night we reconsidered Section 2, make no mistake about that; I'm talking about Mr. Lindore, our Parliamentarian --

PRESIDENT CASSELL: Okay, now, what is your proposal?

MR. COOPER: My proposal, Mr. Chairman, is that we follow the same procedures that we followed on that night, and that we take the motion that is on the floor before us now, that we act upon it now, dispose of it, and then we go on with the other sections of this provision so that we may recess, or carry on other business. But Mr. Chairman --

PRESIDENT CASSELL: Make a motion. We heard your admonitions. Let's move on, now.

MR. COOPER: Mr. President, it would not be in order for me to make a motion, because the motion is already on the floor to include this section. It is before us, and it was duly seconded.

MR. JACKSON: I'll make a motion, Mr. President. I move that there can be no reconsideration of any Committee discussions on the first reading.

PRESIDENT CASSELL: I understand you are trying to be helpful. There is a motion on the floor; about all you can do is move the previous question now.

MR. CROFT: Move the previous question.

(The motion was duly seconded.)

MR. T. MOORE: Mr. Chairman, I have been trying to get your attention all night.

PRESIDENT CASSELL: The previous question has been called, my friend. Those in favor of cutting off debate, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: The question has been called on the motion which is on the floor.

MR. KAMENY: State the question, please. I'm not quite clear what I'm voting on.

PRESIDENT CASSELL: All right. Delegate Coates, will you restate the motion that you have brought back to the floor?

MR. COATES: My copy is in the custody of the Secretary, sir.

PRESIDENT CASSELL: Mr. Secretary?

MR. COOPER: "The Governor may veto individual items in the budget unless otherwise specified in this constitution. Upon receipt of a gubernatorial veto, the legislature shall have the power to override the Governor's veto, but such override shall not be effective unless it shall have been decided by two-thirds majority vote of those present and voting."

That is the motion before us.

PRESIDENT CASSELL: Is there discussion on that motion?

(No response.)

PRESIDENT CASSELL: I understand that there is no discussion. The question has been called. Those in favor of the motion on the floor, as read by the Secretary --

MR. COOPER: There is discussion, there is discussion.

PRESIDENT CASSELL: Mr. Secretary, why don't you listen to me? Open your ears, now. There is a reason for calling the previous question. Do you understand what that reason is? That means to cut off debate.

MR. COOPER: Right.

PRESIDENT CASSELL: That was accepted by the body.

MR. COOPER: Correct.

PRESIDENT CASSELL: We now have no option but to vote.

MR. COOPER: No, sir. We have a ruling --

PRESIDENT CASSELL: Those in favor of --

MR. KAMENY: Point of information.

MR. COOPER: Mr. President, we have a ruling that states that when the question is called, if two for or two against who wish to speak have not spoken, that they should be recognized.

PRESIDENT CASSELL: Those in favor of the motion by Delegate Coates, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Those opposed to Delegate Coates' motion, say no.

(A chorus of nos.)

PRESIDENT CASSELL: Those abstaining?

(No response.)

PRESIDENT CASSELL: This sounds close. May I see a show of hands supporting Delegate Coates' motion?

(A show of hands.)

MR. COOPER: Sixteen.

PRESIDENT CASSELL: Those opposed?

(A show of hands.)

MR. COOPER: Four.

PRESIDENT CASSELL: Abstaining?

(A show of hands.)

MR. COOPER: Three.

PRESIDENT CASSELL: The motion carries.

Mr. Schrag?

MR. SCHRAG: Mr. President, I move to suspend the rules to amend Section 17 of the legislature article to make it consistent with this so that Style and Drafting doesn't have to bring back the strange and weird inferences --

(Simultaneous conversation.)

MR. SCHRAG: Well, we have to deal with it sometime. Let's get it over with. Let's get it over with now.

PRESIDENT CASSELL: Yes?

MS. SHELTON: Mr. President, while I am anxious that we move forward, I think some respect is due. There are two committees that are in consideration here, my own, the Legislative Committee, but we also have the Executive Committee, and it appears that maybe it would be in the best interest of expedient action, as well as due consideration to the other two committees, if we were allowed an opportunity for those Committee Chairs and those Committees that have

worked on several sections to at least be afforded an opportunity to consider their articles in light of the action taken by the Committee.

Therefore, I would say that to move hastily along this way would not serve any useful purpose to the Convention. We have already voted. We are aware that we have two conflicts here, and it would seem necessary that we could at least wait until one full 24 hours of this Convention has moved to allow us an opportunity to study the impact.

MR. SCHRAG: I'll withdraw the motion in view of the opposition, Mr. Chairman.

PRESIDENT CASSELL: Thank you.

Delegate Coates?

MR. COATES: Thank you, sir. I move the adoption of the section on page 5, beginning on line 14, entitled, "Debt Service Limitations", beginning with the words, "Long-term debt".

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that the section, "Debt Service Limitation", line 14, page 5, be adopted.

Discussion? Delegate Talmadge Moore?

MR. T. MOORE: Mr. President, just as a

point of interest, I would like to know what is defined as a "long-term debt"? Ten years, 20 years, or what?

MR. COATES: Long-term debt is that debt which is issued by the general obligation bonds as contrasted with the (inaudible) notes and revenue notes, which are short-term. Generally, they would be debts which exceed one year in their amortization.

Mr. President, beyond responding to the question of Delegate Talmadge Moore, I would like to move the following minor amendment to that section, and the amendment occurs on page 5, line 2, as follows: beginning on line 2, after the word, "the", insert the word, "current" -- I'm sorry, page 6, line 2. This section begins on page 5 and ends on line 6, and lines 1 and 2.

My amendment is on line 2; after the word, "the", insert the word, "current"; strike the word, "total", insert the word, "biennium". "Biennium", then, would follow the word, "current". That is, reading again, after the word, "the", to insert the word, "current"; to strike the word, "total"; then to insert "biennium". "Biennium" would then come before the word, "revenues", which remains in the line. To move down the line, strike the word, "of", and insert the word, "in"; to strike the word, "the", and insert the word,

"any". "Any" would be inserted before "biennial". So that line 2, as amended, sir, would now read, "Fourteen percent of the current biennium revenues in any biennial fiscal period."

I move the adoption of that amendment.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that this section be amended, as indicated, so that on line 2, it reads, "Fourteen percent of the current biennium revenues in any biennial fiscal period."

MR. COATES: Mr. President, this makes it clear what revenues we are speaking about.

PRESIDENT CASSELL: Okay. Oulahan?

MR. OULAHAN: Mr. Chairman, I move the adoption of this amendment. It was proposed by Matt Watson, the former auditor, in a meeting with the Committee.

PRESIDENT CASSELL: Further discussion?

Did I see a hand from the Committee?

MR. BRUNING: Just to call the question.

PRESIDENT CASSELL: Those in favor of the amendment as read, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Delegate Coates?

MR. COATES: I move the adoption, sir, of the section entitled "Debt Service Limitations" as amended.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that the section, "Debt Service Limitations", as amended, be adopted.

Discussion? Long?

MR. LONG: I have a minor amendment, which I discussed with Reverend Coates before, and I expected him to make it. On line 1, the word, "repayment", is not really correct, because it sounds like it refers to just payments on principal. What they mean is debt service, which is a combination of principal and interest. So I move that the word, "repayment", be replaced by the two words, "debt service".

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that the further amendment to the amendment on the floor now be replace on line 1 the word, "repayment", with "debt service".

Discussion?

(No response.)

PRESIDENT CASSELL: Those in favor of that amendment signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: We are back to the original amendment, and that is the current biennium revenues in any biennial fiscal period.

MR. COATES: We are back to the original as amended twice.

PRESIDENT CASSELL: Okay, we are back to the main motion as amended. Those in favor of the main motion as amended, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Delegate Coates?

MR. COATES: Mr. President, I move the adoption of the section entitled, "Taxing Power", beginning on line 5, the first paragraph thereof, and ending on line 7.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that beginning on line 5, "Taxing Power", be adopted as read.

Is there any discussion?

MR. COATES: This is standard language, Mr. Chairman.

PRESIDENT CASSELL: Mr. Moore?

MR. T. MOORE: My question is on line 6 -- I think I asked the Chairman about this previously -- are we saying that this power shall never be surrendered? Are we anticipating in the future, 10, 15, 20 years from now, we don't know what is going to happen with local government and things of that nature in the future? Are we saying this will never be surrendered?

MR. COATES: Except as provided in this constitution The constitution would allow, of course, amendment of itself, and under such amendments, the power to levy tax could become a power of local governments or any entities within the state.

PRESIDENT CASSELL: Is there further discussion on

"Taxing Power"?

(No response.)

PRESIDENT CASSELL: Those in favor, say aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: "Taxing Power" is approved.

Delegate Coates?

MR. COATES: Mr. President, I move the adoption of the section entitled, "Taxing Power of Local Governments," beginning on line 9 and ending on line 10, beginning with the words, "Local governments within".

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that this paragraph be adopted. Discussion?

(No response.)

PRESIDENT CASSELL: Those in favor, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Next?

MR. COATES: Mr. President, I move the adoption of the section on page 6, entitled, "Tax Exemptions, Retail Sales", beginning on line 11 and ending on line 14, and beginning with the words, "The state legislature".

(The motion was duly seconded.)

MR. COATES: Mr. President, I do ask, or propose, that we amend the section, based on a suggestion made by Delegate Schrag, so that in lines 13 and 14, we would replace the term, "other medicines", with "these terms", so that lines 13 and 14 as amended would read, "These terms shall be defined by the legislature, the terms prescription drugs and retail groceries." The reason is that they are not only questions as to what constitutes medicine, but they are questions as to what constitutes retail groceries. Cases in point, the matters of beer, toothpaste, paper goods, et cetera.

PRESIDENT CASSELL: Is there a second?

(The motion was duly seconded.)

PRESIDENT CASSELL: Any discussion?

Delegate Oulahan?

MR. OULAHAN: Mr. President, I think the amendment

points out the reason why I am going to make a motion right now, having to depend on the legislature, because I believe this is a legislative matter, and because studies by the D.C. Tax Commission show that these kinds of taxes here are regressive, and I move this section be deleted.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that this section be deleted.

Discussion? Delegate Jordan?

MR. JORDAN: I just want to raise a question, Mr. Chairman. The taxes that are referred to as regressive are prohibitive, is that correct?

MR. OULAHAN: That's right.

MR. JORDAN: So, what is the opposition to it? I mean, if they are regressive taxes, and the argument is that we don't want regressive taxes --

PRESIDENT CASSELL: Let's let the Committee respond.

Delegate Barnes?

MR. BARNES: If I understand Delegate Oulahan correctly, you are against this because you want a regressive tax?

MR. OULAHAN: No. May I clarify that, Mr. President?

PRESIDENT CASSELL: Yes.

MR. OULAHAN: My position is that this is a matter that ought to be carefully considered by the legislature, so that a fair tax provision can be adopted. I don't think we in this Convention have the facts or figures or knowledge to do that.

MR. CROFT: Point of clarification.

PRESIDENT CASSELL: Delegate Croft.

MR. CROFT: Did I hear you again say that you were not against regressive taxes?

MR. OULAHAN: I don't want a regressive tax.

MR. CROFT: I thought I heard you say that you were not against regressive taxes.

MR. OULAHAN: I don't want a regressive tax. The D.C. Tax Commission has come out with a study which I could not get, which I am informed by Matt Watson says if you exempt from tax the items you have here, the effect on the persons who are supposed to be exempted is regressive. What I am saying is, let's leave this up to the legislature so we come out with a fair tax schedule.

MR. CROFT: Point of information.

PRESIDENT CASSELL: Yes, state your point.

MR. CROFT: Yes, I teach a course on the D.C. budget, and I use that budget study as my basic text and it

says the exact opposite. Matthew Watson also lectures in my classroom, and he also says the exact opposite about what the report says -- just for the clarification of the delegates here, what was said by Delegate Oulahan was a distortion of what is in the text of that report. I teach a class on the District budget.

PRESIDENT CASSELL: Delegate Barnes?

MR. BARNES: Unless there is confusion out on the floor, I would just like to say that one of the most regressive taxes, if not the most regressive tax, is the retail sales tax on food. Now, I'll explain it simply like this. If you are making \$100,000 a year, your food cost is nominal compared to what you spend on other items. If you are making \$300 a year, you are going to spend every penny you have on food. Therefore, if you pay 5 percent on \$300, you are not going to have the money. It is that simple.

What this section of the article will do is eliminate one of the most regressive taxes that exists in state government and I urge the convention to approve this section because it will aid those whose economic burdens are the greatest.

PRESIDENT CASSELL: Delegate Rothschild, and then we are going to vote.

MR. ROTHSCCHILD: I essentially agree with Delegate Oulahan, for the following reasons. I agree with Delegate

Barnes' analysis of the fact that food taxes could be and are regressive. But nevertheless, there are different ways to compensate for the regressivity of food taxes, some of them being tax credits, some of them being food subsidies. These may or may not be desirable. But just the fact of the matter that there are other ways to go about making food available to those who need it without writing this provision in the constitution leads me to want to not support it because I want to leave it up to the legislature, which may devise other ways of taking care of the same problem at a later time, and it is too much detail.

Thank you.

PRESIDENT CASSELL: Okay, the motion on the floor is to delete the section, "Tax Exemptions - Retail Sales". Those in favor of that deletion, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Those opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: The motion loses. We are back to the Coates amendments on lines 13 and 14.

MR. COATES: Mr. President, I move the adoption of

the paragraph entitled, "Tax Exemptions - Retail Sales", as amended.

PRESIDENT CASSELL: Is there a second?

MR. SCHRAG: We're back to the amendment. His --

MR. COATES: I thought we voted on the amendment.

MR. SCHRAG: His was a substitute. We haven't voted on the amendment.

PRESIDENT CASSELL: That's right. We are back to your amendments, 13 and 14. There was an attempt to make further amendments. Those in favor of the amendments indicated by Delegate Coates, signify by saying aye.

(A chorus of ayes)

PRESIDENT CASSELL: Opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Delegate Coates?

MR. COATES: Mr. President, I move the adoption of a paragraph entitled, "Tax Exemptions", as amended.

PRESIDENT CASSELL: Those in favor, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Let me see the hands of those in favor, please.

MR. COATES: In favor of the article, "Tax Exemptions - Retail Sales".

(A show of hands.)

MR. COOPER: Seventeen.

PRESIDENT CASSELL: Those opposed?

(A show of hands.)

MR. COOPER: Three.

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Okay. "Tax Exemptions - Retail Sales" is adopted.

Delegate Coates?

MR. COATES: Mr. President, I move the adoption on page 7 of a paragraph captioned, "Tax Exemptions - Real Estate", beginning on line 1 and ending on line 8, and beginning with the words, "Tax exemptions on real property".

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that "Tax Exemptions - Real Estate" be adopted. Discussion?

MR. COATES: Mr. President, there is an amendment by